IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO. 101 OF 2004

IN

WRIT PETITION NO. 2019 OF 2003

Sadanand Garage .. Petitioners.
.. (Orig.Petitioner)

Vs.

State of Maharashtra .. Respondents.
& Ors. .. (Orig. Respondents.)

Mr. Puniwala a/w. D.H.Mehta i/b. Y.R.Shah for the Petitioners.
Mr. S.J.Sawant a/w. S.G.Surana and V.S.Updhyay for Respondent Nos. 3 & 4.
Mr. R.M.Sawant AGP for Respondent NO. 1 & 2.

CORAM : S.K.Shah, J.
DATE : June 24, 2005.

P.C.:-

1. This Petition is filed alleging that the Respondents committed contempt of the Order, passed by the Division Bench of this Court, dated 20th February, 2004, in Notice of Motion No. 101 of 2004 in Writ Petition No. 2019 of 2003.

2. By that Order, the Court had accepted the Statement made by the learned Govt Pleader that the

Respondent No. 2 (Special Land Acquisition Officer, MHADA, Old Customs House) would maintain status quo. It was further clarified that the said Order will not come in way of Respondent No. 2 i.e. the Petitioner herein for performing Bhumipoojan, already scheduled on 21.2.2004 at 10.00 a.m.

3. It is alleged that despite this Order, the Respondent No. 3 and 4 had used the plot for the use of the devotees to make a queue for entering the temple and also made some construction on the plot.

4. It is a matter of fact that the Notice of Motion No. 101/2004 in which the aforesaid Order was passed, has been dismissed.

5. The Contemnor - Respondent No.2 herein had already filed an affidavit in February, 2004, wherein the facts were clearly mentioned that the possession of the plot of land was already taken on 17.2.2004 from the Original Owner. The Petitioners, who happened to be the tenant in respect of the building, as well as the plot, were sought to be served with a notice of possession, issued under Section 12(2) of the Land Acquisition Act. However, the Petitioners refused to accept the same and, therefore, service was made by affixing the notice on the premises, which was done on 16.2.2004. It was, thereafter, the possession of the property was taken on 17.2.2004.

5. It is pertinent to note that the Order of which the contempt is alleged to have been committed, was passed on 20.2.2004, when the Status quo was undertaken to be maintained by the Respondent No. 1 and 2. It is apparent that the possession was already taken on 17.2.2004, and when possession was already taken, there is no question of contempt having been committed in respect of that Order. As such, I do not find any merit in this Contempt Petition. The same is, therefore, dismissed in limine.

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[S.K.Shah, J.]